



**UNITED STATES DEPARTMENT OF COMMERCE
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08/852,119

APPLICATION NO. 08/852,119	FILING DATE 05/06/97	FIRST NAMED INVENTOR JONES	ATTORNEY DOCKET NO. 507011026
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EXAMINER
LOUIS JACQUES, J

ART UNIT
3661

PAPER NUMBER
24

DATE MAILED: 07/27/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

08/852,119

Examiner

Jacques H. Louis-Jacques

Applicant(s)

JONES, MARTIN

Art Unit

3661

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 1999 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either a timely filed amendment which places the application in condition for allowance or a Notice of Appeal. Alternatively, applicant may obtain further examination by timely filling a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136 (a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked.

1. ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for reply set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☐ they raise the issue of new matter. (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-21 and 23-49.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☐ Other:

Jacques H. Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER

Continuation of 6. does NOT place the application in condition for allowance because: 37 CFR 1.131 (b) states that " The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of

the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies

thereof, must accompany and form part of the affidavit or declaration or their absence satisfactorily explained" However, applicant fails to submit "original exhibits of drawings or record, or photocopies thereof", nor any "satisfactorilly explanation" of their absence is provided.

37 CFR 1.131(b) requires that original exhibits of drawings or records, or photocopies thereof, accompany and form part of the affidavit or declaration or their absence satisfactorily explained. In Ex parte Donovan, 1890 C.D. 109, 52 O.G. 309 (Comm'r Pat. 1890) the court stated: If the applicant made sketches he should so state, and produce and describe them; if the sketches were made and lost, and their contents remembered, they should be reproduced and furnished in place of the originals. The same course should be pursued if the disclosure was by means of models. If neither sketches nor models are relied upon, but it is claimed that verbal disclosures, sufficiently clear to indicate definite conception of the invention, were made the witness should state as nearly as possible the language used in imparting knowledge of the invention to others..